

REMARKS

Applicant replies to the Office Action dated May 26, 2009, within the shortened statutory three month period for reply. Claims 1 - 4 were pending in the application. The Examiner rejects claims 1 - 4. Support for the amendments may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by these amendments. Reconsideration of this application is respectfully requested.

The Examiner objects to the Abstract because the Abstract discloses an embodiment of the invention and fails to summarize the invention. Applicant respectfully disagrees, but to expedite prosecution, Applicant amends the Abstract to include a concise statement of the technical disclosure of the patent application.

The Examiner next rejects claims 1-2 under 35 USC 102(e) as being anticipated by Park, US Patent Publication 2004/0223440 A1 ("Park"). Applicant respectfully traverses these rejections.

Claim 1 recites "a drive apparatus for performing a pseudo-overwrite recording" (emphasis added). Applicant asserts that Park does not teach or suggest a drive apparatus for "performing a pseudo-overwrite recording" because the drive apparatus of Park is only for "managing disc management information" and "recovering management information" (see claims 36-38, title, and abstract of Park). In other words, the disc apparatus of the claimed invention is for pseudo-overwrite recording data onto a disc in such a manner that a user will see data on a specific location being overwritten/re-written, whereas the disc apparatus of Park is only to "manage well position information indicating whether or not an area has a data written thereon, position information indicating the location of the disc area to which data can be written, defective area information indicating the location of defective areas, and the like" and for "storing and recovering disc management information to and from the optical disc", rather than overwriting or rewriting data (see, e.g., paragraph [0010] and [0011] of Park).

Furthermore, Park does not disclose or contemplate any sort of pseudo-writing recording. Therefore, Applicant asserts that Park does not disclose any "drive apparatus for performing a pseudo-overwrite recording", nor even suggest the feature or the pseudo-overwrite recording feature.

Claim 1 also recites "receiving a recording instruction including a location at which data is to be recorded...controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction." This claim element means that, for example, when the recording instruction is received, the recording apparatus records the data at another location, other than the location included in the recording instruction. According to this claim element of claim 1, the recording apparatus records data at another location other than the location included in the recording instruction, regardless whether a defective area exists. This means that the recording apparatus does not depend on anything to record data at another location, other than the location included in the recording instruction.

In contrast, Park describes that "if a defective area is found in the data area or a spare area, a process is carried out for transferring data from the defective area to a spare area" (emphasis added; paragraph [0043] of Park). Significantly, Park's disclosure is different from the claimed invention, since Park requires the "transferring data from the defective area to a spare area" is dependent on when "a defective area is found in the data area or a spare area". That is, the claimed invention records data at another location, independent of whether a defect is found, while the drive apparatus of Park transfers data to a spare area (i.e., record data at another location), depending on whether a defective area is found in the data area or spare area.

Applicant asserts that an exemplary advantage of the claimed invention which is not achieved by Park is that, from the user's point of view, information on the write-once recording medium can now be "replaced" by use of pseudo-overwrite recording. Park only allows for "recovery" of disc management information when there are defects on the disc (see paragraph [0003] of Park).

Moreover, Applicant asserts that the claim elements of "determining whether or not the recording of the data at the replacement location in the user data area has succeeded; and when the recording of the data at the replacement location in the user data area has failed, controlling the recording/reproduction section to record the data at a location in the spare area", may be similar to the disclosure of Park, as indicated by the Examiner. However, Applicant asserts that these features are not the main inventive features. Rather, the more significant inventive features are "receiving a recording instruction including a location at which data is to be recorded. . .

controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction".

Accordingly, Applicant asserts that Park does not disclose or contemplate at least "a drive apparatus for performing a pseudo-overwrite recording", "receiving a recording instruction including a location at which data is to be recorded" nor "controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction," as recited by independent claim 1.

Claim 2 depends from independent claim 1, so Applicant asserts that claim 2 is differentiated from the cited reference for the same reasons as set forth above, in addition to its own respective features.

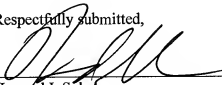
The Examiner next rejects claims 3-4 under 35 USC 103(a) as being obvious over Park in view of Hwang, US Patent No. 5,825,726 ("Hwang"). Applicant respectfully traverses these rejections.

As discussed above, Park does not disclose or contemplate at least "a drive apparatus for performing a pseudo-overwrite recording", "receiving a recording instruction including a location at which data is to be recorded" nor "controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction," as recited by independent claim 1, and Hwang does not compensate for these deficiencies. Moreover, claims 3-4 depend from independent claim 1, so Applicant asserts that claims 3-4 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

In view of the above remarks, Applicant respectfully submits that all pending claims properly set forth that which Applicant regards as the invention and are allowable over the cited references. Accordingly, Applicant respectfully requests allowance of the pending claims. Should the Examiner have any suggestions to place the application in even better condition for allowance, Applicant requests that the Examiner contact the undersigned representative at the telephone number listed below. The Commissioner is authorized to charge any fees due or

refund any overpayment to Deposit Account No. 19-2814, including extension of time fees, if needed.

Respectfully submitted,



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